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Attorneys for: Spire Construction, LLC
and Philadelphia Indemnity Ins. Co.

United States District Court
District of Nevada

ALPHA OMEGA MECHANICAL, LLC, a Nevada
limited liability company,

Plaintiff,

vs.

SPIRE CONSTRUCTION, LLC, a foreign limited
liability company; PHILADELPHIA INDEMNITY
INSURANCE COMPANY, a surety corporation,
Defendants.

Case No.: 3:21-cv-392

Notice of Removal

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Spire Construction, LLC ("Spire") hereby gives notice of the removal of this action from the Second Judicial District Court, Washoe County, Nevada, to the United States District Court for the District of Nevada. In support of this Notice of Removal, Spire provides the following information:

1. On August 3, 2021, Plaintiff Alpha Omega Mechanical, LLC ("Plaintiff") filed a complaint against Spire and Canyon Flats III, LLC in the Second Judicial District Court, Washoe County, Nevada., Case No. CV21-01433. On August 24, 2021, Plaintiff amended its complaint by removing Canyon Flats, III, LLC as a defendant, and adding Defendant

1 Philadelphia Indemnity Insurance Company ("PIIC"). Spire remains a defendant in the First
2 Amended Complaint.

3 2. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §
4 1332 based on diversity of citizenship because there is complete diversity of citizenship
5 and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.
6

7 **Citizenship**

8 3. As alleged in the Complaint and First Amended Complaint, Plaintiff is a
9 Nevada limited liability company.

10 4. Spire is informed and believes, and on that basis alleges, that Plaintiff's
11 members are Nevada citizens William Russel and Josh Marks.

12 5. Limited liability companies are citizens of the states in which its members
13 are citizens. Johnson v. Columbia Props. Anchorage, LP, 437 F.3d 894 (9th Cir. 2006). A
14 corporation is a citizen of every state and foreign state in which it has been incorporated
15 and the state or foreign state where it has its principal place of business. 28 U.S.C. §
16 1332(c)(1).
17

18 6. Plaintiff is therefore a citizen of Nevada.

19 7. Spire's members are individuals Gene Ritz and Russ Greer. Gene Ritz and
20 Russ Greer are both citizens of Florida. Therefore, Spire is a citizen of Florida.
21

22 8. PIIC is a Pennsylvania corporation with its principal place of business (its
23 "nerve center") in Pennsylvania.

24 9. PIIC is therefore a citizen of Pennsylvania.
25
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28

Amount in Controversy

10. In its First Amended Complaint, Plaintiff alleges it is owed the “Outstanding Balance” of \$407,005.79, and that it recorded a mechanic’s lien for that same amount. Plaintiff’s request for relief seeks a judgment “in the amount of the Outstanding Balance.”

11. Accordingly, the amount in controversy is at least \$407,005.79, which exceeds \$75,000, exclusive of interests and costs.

Timeliness

12. This action is removable under 28 U.S.C. § 1441(b) because: (a) this Court has original jurisdiction under 28 U.S.C. § 1332 based on diversity of citizenship because there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs; (b) Spire is not a citizen of Nevada; and (c) PIIC is not a citizen of Nevada.

13. Spire and PIIC did not receive a copy of Plaintiff’s Complaint. But Spire’s and PIIC’s attorney reviewed the Complaint through the Second Judicial District Court’s online docket on August 3, 2021. Neither the Complaint nor the First Amended Complaint have been served. Assuming the attorney’s review of the Complaint constitutes the day Spire first received a copy of the initial pleading, through service or otherwise, the 30th day after is September 2, 2021.

14. Accordingly, this action is timely removed by Spire and PIIC in accordance with 28 U.S.C. § 1446(b).

15. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all process, pleadings, and orders are attached hereto as Exhibit 1, even though these documents have not been served on Spire or PIIC.

